

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

ROQUE "ROCKY" DE LA FUENTE,

Plaintiff,

v.

KIM WYMAN, in her official capacity as
the Secretary of State of the State of
Washington,

Defendant.

NO. 3:16-cv-058011-BHS

DECLARATION OF CALLIE A.
CASTILLO IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, Callie A. Castillo, declare as follows:

1. I am over the age of 18, am competent to testify to these matters, and make this declaration on my personal knowledge.
2. I am a Deputy Solicitor General for the Attorney General's Office and represent the Secretary of State in election-related matters.
3. **Exhibit 1** is a true and correct copy of the Facebook post produced by Mr. De La Fuente in response to the Secretary of State's First Requests for Production.
4. **Exhibit 2** are true and correct copies of excerpts from the Deposition of Jody Grage taken on August 24, 2017.

1 5. **Exhibit 3** are true and correct copies of excerpts from the Deposition of Lori Augino
2 taken on September 5, 2017. The court reporter filed a Reporter's Errata Sheet on October 3,
3 2017, to correct deficiencies in the initial transcript. The Errata Sheet has been attached to the
4 certified copy.

5 DATED this 4th day of October 2017, in Olympia, Washington.

6 
7
8 CALLIE A. CASTILLO



facebook.com/profile.php?id=100005601031870&sk=allactivity



Michael

Home

Find Friends



Activity Log

Activity Search

Jag och far ute på sjön, [↑]top #sweetweather #byberget

JULY 8



Michael Jennings updated his status.

Jul 08, 2015 6:24am

If anyone knows anyone in the Seattle/Tacoma Washington Area, we're having a convention for Rocky De La Fuente at the Walmart located at 1965 S Union Ave, Tacoma, WA 98405. We need to gather 3000 signatures between July 9th (from 9am to 6pm) to July 22nd (from 9am to 6pm). For more information please call me at 818-643-9713.



JULY 7



Michael Jennings likes Luis Maya's post.

Make that 4 confirmed dead officers. Condolences to their families



One officer is confirmed dead. Possibly 3. Damn that's some fucked up shit. Where do people think this will get them? This will serve to further divide and fuel the fire

EXHIBIT 1

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UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WASHINGTON

CERTIFIED COPY

ROQUE "ROCKY" DE LA FUENTE,)

Plaintiff,)

vs.)

KIM WYMAN, in her official)
Capacity as the Secretary of)
State of the State of)
Washington,)

Defendant.)

Case No. 3:16-cv-05801

DEPOSITION OF
JODY GRAGE
SEATTLE, WASHINGTON
AUGUST 24, 2017

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376

REPORTED BY: Kim Scheuerman, CCR 2517

FILE NO: AB08FA5

Jody Grage
August 24, 2017

EXHIBIT 2 1

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UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WASHINGTON

ROQUE "ROCKY" DE LA FUENTE,)
)
Plaintiff,)
) Case No. 3:16-cv-05801
vs.)
)
KIM WYMAN, in her official)
Capacity as the Secretary of)
State of the State of)
Washington,)
)
Defendant.)
)

Deposition of JODY GRAGE, taken on behalf
of Plaintiff, at 1420 Fifth Avenue, 33rd Floor, Seattle,
Washington, commencing at 1:00 p.m., Thursday, August 24, 2017,
before Kim Scheuerman, CCR No. 2517.

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A P P E A R A N C E S

FOR PLAINTIFF:

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Mountville, PA 17554

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FOR DEFENDANT:

ATTORNEY GENERAL OF WASHINGTON
DEPUTY SOLICITOR GENERAL
BY: CALLIE A. CASTILLO
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504
calliec@atg.wa.gov

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1 Q. What does the ballot -- the Green Party Ballot Access
2 Committee do?

3 A. As you are well aware, and this --

4 Q. This may be the longer question you answer.

5 A. Every state and the District of Columbia have different
6 rules and regulations about ballot access. Some of them are
7 horrendously onerous and some of them are, you know, not that big
8 a deal. Some of the states are extremely rigorous in their
9 reviewing of petitions and signatures. If you don't put your
10 middle initial in and you did when you registered, then your
11 signature is thrown out, etcetera.

12 Fortunately, here in Washington state, we were fairly
13 reasonable, and so we don't have that much difficulty. But being
14 co-chair of the Ballot Access Committee, there are states where
15 you have to get 89,000 valid signatures to get on the ballot and
16 where you have to collect them from various places. I mean,
17 there -- you would almost think they didn't want us on the
18 ballot.

19 Q. What a horrible thing to say.

20 A. I know. I find it hard to believe, but the thought has
21 crossed our minds.

22 Q. That can't possibly be true. I say that facetiously.

23 A. I was being facetious, too, sort of.

24 Q. Fair enough. As the Ballot Access Committee co-chair
25 at the national level and your position as the -- a chapter

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1 coordinator in Washington state for the Green Party, and your
2 prior experience on the coordinating council, are you familiar
3 with the process of how you get candidates, Green Party
4 candidates on the state's general election ballot?

5 MS. CASTILLO: Objection as to form.

6 MR. ROSSI: Fair enough.

7 Q. (By Mr. Rossi) Are you aware of the process to get
8 candidates on the ballot --

9 A. Yes.

10 Q. -- in Washington?

11 A. I've been working with the Green Party since the mid
12 '80s. So I am one of the Border Collie types, the chief nags
13 that make sure things get done. So I am well aware of what we
14 need to do.

15 Q. Did the Green Party nominate a candidate for president
16 in 2016?

17 A. Yes.

18 Q. What was that candidate's name?

19 A. Jill Stein and Ajamu Baraka was the vice presidential
20 candidate.

21 Q. Can you spell the last name?

22 A. For Jill or Ajamu? B-a-r-a-k-a. First name A-j-a-m-u.

23 Q. Did you circulate petitions for Jill Stein to get her
24 on the Washington ballot in 2016?

25 A. I don't think "circulate" is the right word.

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1 Q. Okay.

2 A. Shall I explain to you what we did?

3 Q. Please do.

4 A. In this state, we need 1,000 ballot signatures.

5 Generally, we turn in 1300, and that works fine. The people at
6 the Ballot Access Committee get a little panicked because a lot
7 of states are very stringent, and they feel we should always get
8 double. And I said, we don't need to do that. We have been
9 doing this for years; 1300 is fine.

10 So the process is that we get an announcement in the
11 paper of where we are going to hold a convention. And it starts
12 at a particular time, the ending is -- it can go on as long as we
13 want it to. And at that time and place we can gather signatures.
14 And I brought a copy of the notice that we have to put in the
15 paper.

16 Q. Thank you very much. That was going to be one of my
17 questions.

18 A. Except that I didn't make a copy of it before I brought
19 it, so...

20 MR. ROSSI: Can we get a copy of this?

21 MR. FOREMAN: I think so.

22 MS. CASTILLO: If you want to go off the record.

23 MR. ROSSI: Off the record.

24 (Recess taken.)

25 (Exhibit No. 1 marked for identification.)

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1 found. So it's like 435 bucks or something for a federal office.

2 Q. So it's your understanding -- strike that.

3 Have you, aside from presidential candidates, have you
4 helped to get state-wide candidates on to the ballot for the
5 Green Party?

6 A. Maybe not.

7 Q. Okay. So you're not familiar with those rules?

8 A. No, except that there is a good guide here to look at,
9 and I would think that if we had done petitioning for down-ticket
10 candidates, I would remember, and I don't. So I think it's a
11 matter of paying the filing fee, which is modest.

12 Q. So, to your knowledge, this notice requirement of
13 holding a convention only applies for presidential candidates?

14 A. Yes. And I think there are a few states that do it,
15 and Washington is also one of the few states where the only way
16 you can become a major party is to get 5 percent or more for the
17 presidential candidate. There's no other avenue for becoming a
18 major party. It's not what we're talking about, but it's another
19 piece.

20 Q. You said that other states -- and with your hat on as
21 the National Ballot Coordinator for Washington for the Green
22 Party, putting that hat on, do other states have a similar
23 process to get, to your knowledge, to place presidential
24 candidates on the ballot similar to Washington?

25 A. I -- I am not familiar with that. I do know that

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1 compared to what a lot of other state parties have to go through,
2 we don't regard this as onerous. But that is -- you know, that's
3 just in the context of what goes on across the country.

4 Q. Are you aware of any other state that requires
5 publication before you gather signatures?

6 A. No. I could probably look it up. And I know a couple
7 people -- other people on the committee who probably know, but I
8 don't know.

9 Q. But as you sit here now, you don't know --

10 A. I don't know.

11 Q. -- of any state that has this kind of requirement?

12 A. I don't know. Right.

13 Q. Now, you have -- your testimony, correct, you've been
14 working to get Green Party presidential candidates on the
15 Washington ballot for 16 years, correct?

16 A. Or 20. It's been awhile.

17 Q. So through that process, you've grown to know what the
18 rules and processes are to get a candidate on the ballot?

19 A. And we -- and it has worked every time.

20 Q. Congratulations. Because not many states can say that.

21 A. I know.

22 Q. When you first started, was there a learning curve?

23 A. (No response.)

24 Q. Do you understand what I'm --

25 A. Yes, to some extent, because you have to find out what

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1 as I say, try to get it in, you know, way early. For one thing,
2 so we know it's there. For another thing, because the papers
3 have various deadlines. So it's best not to cut it close. But
4 because we were cutting it close, I called to ask and make sure
5 we were all right.

6 Q. Can I ask, why did you cut it close that time?

7 A. I have no idea.

8 Q. You don't know the circumstances?

9 A. I don't remember. I don't remember. It may have been
10 that the venue wasn't secured. It may have been that the
11 newspapers deadline had changed. I mean, there's a number of
12 things that could have caused that to happen, and I don't
13 remember what it was.

14 Q. So even though the law is from here because you had
15 familiarity with the law, and you're aware of the requirements?

16 MS. CASTILLO: Objection to form.

17 MR. ROSSI: Strike that.

18 Q. Generally, your familiarity with the law makes it easy
19 for you to comply with the law, correct?

20 A. Yes. May I elaborate a little?

21 Q. Absolutely.

22 A. It does take some diligence and perseverance and
23 knowing what you have to do. And it does get easier over time.
24 I'm not the only one in the state that knows how to do this. And
25 I do have my files. But it does require some extra planning

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1 and -- but apart of what -- one of the things we decided to do in
2 2016, I mean, we can get 1,000 signatures at the ferry lines in
3 two days.

4 But we decided that we wanted to ask our locals to
5 gather signatures, which made it a little more bureaucratically
6 complex, but we felt that it was a good party building activity.
7 So we didn't just want to go down to the ferry dock in Seattle
8 and do it. We thought, okay, if we have our chapters doing it,
9 and they -- they did a great job and they really liked it. And I
10 think it was a good approach. It was, as I say, it took a little
11 more bureaucratic wrangling, but it was well worth it.

12 Q. Now that you have raised that, let's raise that issue.

13 A. Okay.

14 Q. There are -- how many counties are there in Washington?

15 A. 39.

16 Q. Do you have Green Party members in all of the counties?

17 A. We have -- no, we don't.

18 Q. Do you have Green Party -- excuse me, strike that.

19 Do you have Green Party members in the eastern part of
20 the state?

21 A. Some. We have an active chapter in Spokane. There is
22 one forming down in the Palouse, which is three counties in the
23 southeastern part of the state, which is going to be a hybrid
24 with the Green Party of Idaho. The national party doesn't know
25 about this yet, but we can work it out.

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1 Q. How many Green Party members roughly do you have?

2 A. We have 6,000 people in our database and about a tenth
3 of those are actual members.

4 Q. What does that mean?

5 A. That means they have done one of those three things.

6 Q. So --

7 A. So we have like 600, maybe 700.

8 Q. Six to 700 paid members or hardship waivers?

9 A. Yes. Right.

10 Q. The rest of them are in your database why?

11 A. Because they have expressed an interest in the Green
12 Party. We like to think they are not members yet.

13 Q. Just have to close the deal?

14 A. Right.

15 Q. Now, of the 600, they are not all in counties where you
16 have an active chapter, correct?

17 A. Right.

18 Q. So some of them are dispersed throughout the state?

19 A. Yes.

20 Q. How many counties did you publish your notice for a
21 convention in 2016?

22 A. Oh, I would imagine -- oh, I didn't bring that little
23 list. Probably six or seven.

24 Q. Can you name some of the counties that you published
25 in?

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1 A. Yes. Skagit, Jefferson, King; Thurston. I don't think
2 we went down to Clark. Whatcom, I mentioned Skagit, Snohomish.

3 Q. Snohomish?

4 A. Snohomish.

5 Q. Okay. Now, if a Green Party member wanted to sign Jill
6 Stein's petition in 2016, and they were not in one of these
7 counties, how would they go about signing the petition?

8 A. We did get some inquiries from people who wanted to sign
9 a petition, and we got some after, in fact. We had the
10 signatures turned in and we said, great, that you want to do
11 that; not going to happen, but we have work for you to do. So
12 there's a lot of things to do, even if you can't sign the
13 petition. And Jill will be on our ballot. I mean, their primary
14 concern was that they wanted to be sure that Jill and Ajamu were
15 on the ballot.

16 Q. But for those -- why were those individuals who
17 inquired getting her on the ballot, why were they not able to
18 sign?

19 A. Because there wasn't a notice in an area near them. I
20 suppose, they could have gone to some place, but also, these
21 notices are good generally for two days. And so you have to be
22 at the right time at the right place.

23 Q. What do you mean by these are good for -- these notices
24 are good for two days?

25 A. Well, they're not open-ended. They say when the event

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1 anxiety or frustration on their part. The end result is the
2 candidate will be on the ballot.

3 Q. But some people have said, "I want to sign a petition"?

4 A. Yeah.

5 Q. They wanted to take that act?

6 A. Yes.

7 Q. And they could not?

8 A. True. Well, it would have been -- in some cases they
9 could not because the deadline had passed. And in some cases,
10 they would have had to travel several hundred miles, but...

11 Q. And the only reason they would have had to travel is
12 because you could only gather signatures where the convention has
13 been noted?

14 A. Right. May I make another parenthetical or remark?

15 Q. Sure. This is your testimony.

16 A. I can understand that in other places having to do
17 something like this would be onerous and would get in the way of
18 the process. And as co-chair of the National Ballot Access
19 Committee, I certainly feel that a good many of the conditions
20 that have been laid down in various states over time are -- do
21 limit voter choice.

22 It happens that here the process, which in some other
23 places could be onerous, that we have, you know, adjusted to it
24 and it works. Now, if it may be -- see, one of the problems with
25 being co-chair of the National Ballot Access Committee is there

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1 are tons of places, you know. I would say certainly most states
2 have a far harder time getting candidates on the ballot than we
3 do.

4 Q. I agree with you.

5 A. So as far as where my energy goes, I focus more on the
6 states where we need to have lawsuits or need to organize massive
7 complex signature gathering campaigns.

8 Q. What's -- in your eyes, what does this -- what purpose
9 does this serve?

10 MS. CASTILLO: Objection as to form.

11 Q. (By Mr. Rossi) What does -- what -- based on your
12 experience, does this notification serve any purpose?

13 A. No. Except that it makes -- it adds a bit to the
14 necessary bureaucracy.

15 Q. Are these notices free?

16 A. No.

17 Q. How much does a notice cost?

18 A. Maybe 75 bucks. Maybe not that -- some places it's 75,
19 some places it's more like 30. But you know --

20 Q. Is that --

21 A. -- if you only have to gather 1,000 signatures, then
22 you could do it in two or three places if you wanted to. We just
23 decided to spread it out.

24 Q. In 2016, how much money did the Green Party have in the
25 bank to spend on the 2016 general election?

CERTIFICATE

STATE OF WASHINGTON)
)
 County of Snohomish)

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington do hereby certify:

That the foregoing deposition of **JODY GRAGE** was taken before me and completed on **August 24, 2017**, and thereafter was transcribed under my direction; that the deposition is a full, true and complete transcript of the testimony of said witness, including all questions, answers, objections, motions and exceptions;

That the witness, before examination, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness waived the right of signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the said deposition and promptly delivering the same to Attorney **PAUL A. ROSSI**.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of August 2017.



Kim Scheuerman, CCR

WA CCR. No. 2517

Washington State Certified Court Reporter

Residing at Edmonds, Washington.

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UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WASHINGTON

ROQUE "ROCKY" DE LA FUENTE)
Plaintiff,)

CERTIFIED COPY

v.) Civil Action No.

KIM WYMAN, in her official) 3:16-cv-05801
capacity as the Secretary)
of State of the State of)
Washington,)
Defendant.)

DEPOSITION OF LORI AUGINO

10:30 a.m.
September 5, 2017
Offices of the Washington State Attorney General
1125 Washington Street Southeast, 6th Floor
Olympia, Washington 98504

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376
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REPORTED BY: JUDITH A. ROBINSON-HALLBERG, CCR NO. 2171

EXHIBIT 3

1

Lori Augino
September 5, 2017

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A P P E A R A N C E S

FOR THE PLAINTIFF:

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360.664.2963
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EXHIBIT 3

2

Lori Augino
September 5, 2017

1 nominating petition?

2 A. Yes.

3 Q. And anyone can sign a nominating position, even if
4 they hadn't seen a notice?

5 A. Yes.

6 Q. Okay. In your view, what is the difference, from
7 the standpoint of the person signing the petition, what is
8 the difference between signing a petition where notice has
9 been given and signing an initiative or referendum
10 petition?

11 A. So they're different activities.

12 When you're attending a convention and you're there
13 to learn about the candidate and support a candidate or the
14 platform for that minor party, you're signing you're
15 supporting that candidate moving on to the general election
16 ballot.

17 When you're signing a referendum or an initiative
18 sheet, that is -- that is just a different process that's
19 outlined in law that allows a citizen direct access to make
20 a law or change a law that's already in effect.

21 Q. But if the operative act is signing a petition,
22 what is the difference between the act of signing a
23 nominating petition and the act of signing a referendum
24 petition?

25 A. I think the intent in law is that, as I'm signing a

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C E R T I F I C A T E

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

I, Judith A. Robinson, Certified Court Reporter and an officer of the Court under my commission as a Notary Public, in and for the State of Washington, do hereby certify that the foregoing deposition was transcribed under my direction; that the transcript of the deposition is a full, true and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of any of the parties to the action or any attorney or Counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 12th day of September, 2017.

(Signature not requested)

Judith A. Robinson-Hallberg



Judith A. Robinson, Notary Public
in and for the State of Washington
residing at Seattle.
My Commission expires November 4,
2020.
CCR License #2171

EXHIBIT 3

Lori Augino
September 5, 2017



October 3rd, 2017

Callie A. Castillo, Esq
Attorney General of Washington
1125 Washington Street Southeast
Olympia, WA 98504

Reporter's errata re: Roque "Rocky" De La Fuente vs. Kim Wyman
ABI FILE NO.: AB091BF
Deposition of Lori Augino, taken September 05, 2017

Dear Mr. Wilkins,

The court reporter has noted the following correction to the transcript in the above matter:

Page 19, Line 22: "**position**" should be "**petition**"
Page 19, Line 25: "**position**" should be "**petition**"
Page 20, Line 4: "**position**" should be "**petition**"
Page 48, Line 11: "**part**" should be "**party**"
Page 51, Line 12: Signature was not waived
Page 52, Line 20: Signature was not waived

Please keep this letter with the transcript making it a part thereof. Mr. Rossi has been copied hereto so that he may do the same.

If I can be of further assistance, or if you have any questions, please contact me at 800-288-3376, ext. 3190

Sincerely,

Mike Deffenbaugh
Customer Service Representative

CC: Paul Rossi, Esq
File

EXHIBIT 3